

Schambil et al. ("Schambil"), DE 4,010,393. In response, Applicants point out that Schambil's emulsions are expressly taught to be preferably of the size of bluish emulsions, i.e., opalescent. See page 3, lines 56-58 thereof. As taught in the instant specification, for example, at page 1, lines 15ff, such emulsions owe their color to the fact that their particle sizes range from ca. 10^{-1} μm to ca. 1 μm , which is sufficient to scatter light, thereby resulting in the bluish color. In contrast, the particle size of transparent or transparent microemulsions ranges from about 10^{-2} μm to about 10^{-1} μm . At this small size, the particles are unable to scatter visible light, and, therefore, they appear "clear." In short, Applicants submit that Schambil's emulsions clearly are not "transparent or translucent" emulsions of the type presently claimed, and, therefore, there is no anticipation.

Another reason why Schambil's microemulsions are opalescent rather than transparent is the relatively high concentration of oily compounds that Schambil's uses. The amount of oily component in Schambil's compositions ranges from 12.98-13.88% by weight. By way of contrast, the instant examples show a maximum of 11.85% in Example 4. In order to make clearer the departure from Schambil, the claims have been amended to require that the amount of the oil phase is " $\leq 11.85\%$ by weight" of the composition in conformity with the instant examples. Schambil does not anticipate this limitation, and, therefore, again there is no anticipation.

Claims 1-3 were rejected under 35 USC \S 102(e) as being anticipated by Allard et al. ("Allard"), U.S. Patent No. 5,616,331. In response, Applicants point out that the instant claims have been amended to require that the oil phase is $\leq 11.85\%$ by

weight of the composition. The Examiner pointed to especially Example 1 of Allard and other selected portions of Allard as constituting the anticipation. In Example 1 of Allard, the oil phase (liquid petroleum) is 45% by weight of the composition. Consequently, Allard does not constitute an anticipation of the amended claims.

Claim 2 was rejected under 35 USC § 112, second paragraph, as being indefinite. In response, Applicants have canceled clause "e," although Applicants also point out that such "further processing steps" are still embraced by the use of the open-ended terminology "comprising."

Claims 2 and 3 were objected to for using "characterized in that" and passive verb forms. In response, Applicants have followed the Examiner's suggestion with respect to "characterized in that." Regarding the use of the passive form, Applicants submit that this is commonplace in U.S. patents, and that, therefore, no defect exists, but, if the Examiner maintains this objection, then Applicants will either rewrite the claims in active voice or else authorize the Examiner to do so by Examiner's Amendment.

The specification was objected to as lacking a brief description of the drawings. In response, Applicants respectfully request that this issue be held in abeyance until allowable subject matter is indicated, at which time Applicants will either provide a brief description of the drawings or else authorize the Examiner to add a brief description of the drawings by Examiner's Amendment.

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USSN 08/930,235

Finally, Applicants were required to insert a reference to the international application on page 1 of the specification. In response, Applicants have amended the specification to recite the required reference.

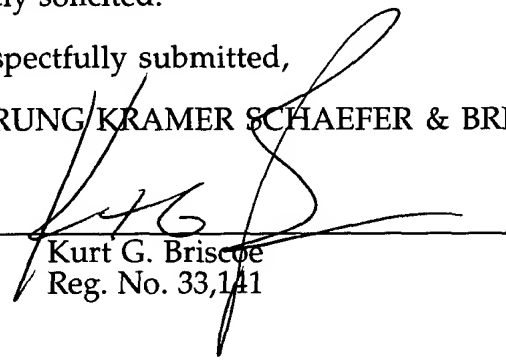
Applicants believe the foregoing constitutes a full and complete response to all outstanding objections and rejections.

Early and favorable action is earnestly solicited.

Respectfully submitted,

SPRUNG/KRAMER SCHAEFER & BRISCOE

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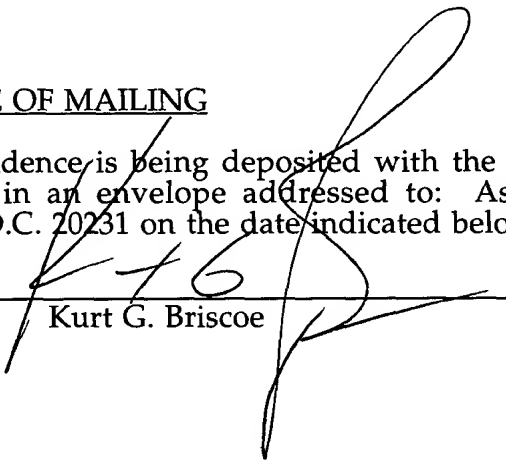
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